

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JESSICA BENTON, SHELBY BRYANT,
ANNE MARIE CAVANAUGH, ALYSSA
GARRISON, and CLARE THOMAS,

Plaintiffs,

v.

CITY OF SEATTLE,

Defendant.

No. 2:20-CV-01174 RAJ

JOINT STATUS REPORT AND
DISCOVERY PLAN

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Western District of Washington and the Court's Order (Dkt. No. 15). Plaintiffs Jessica Benton, Shelby Bryant, Anne Marie Cavanaugh, Alyssa Garrison, Clare Thomas and Defendant City of Seattle (collectively the "Parties") submit the following Joint Status Report and Discovery Plan:

1. Statement of the Nature and Complexity of the Case.

Plaintiffs' claims arise out of Defendant's response to ongoing protests against police brutality and Defendant's crowd control policies, including Defendant's use of "less-lethal" weapons. Plaintiff

JOINT STATUS REPORT AND
DISCOVERY PLAN - 1 (2:20-cv-01174 RAJ)

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alleges, *inter alia*, claims of violation of the First, Fourth, and Fourteenth Amendments to the United States Constitution. Defendant denies Plaintiffs' allegations intends to assert affirmative defenses, including, but not limited to, lack of standing, that Defendant cannot be held liable on a *respondeat superior* basis, and Plaintiffs are not entitled to injunctive and declaratory relief. Plaintiffs filed a motion for a Temporary Restraining Order, which the Court denied. Neither party deems this case particularly complex.

2. Proposed Deadline for Joining Additional Parties.

The Parties respectfully propose a deadline of November 30, 2020 for joining additional parties.

3. Assignment to Magistrate Judge.

No.

4. Proposed Discovery Plan:

- A. Initial Disclosures. The parties exchanged initial disclosures as of the date of this filing.
- B. Subject, Timing, and Potential Phasing of Discovery. The Parties expect the topics for discovery to include all asserted claims and defenses. Discovery will be completed at least 120 days prior to the proposed trial date, in accordance with the Court's order. Dkt. 15. The City of Seattle intends to move to stay this matter and consolidate the matter in all respects with *Black Lives Matter v. City of Seattle*, Case No. 20-887-RAJ. Plaintiffs oppose the City's anticipated motion. The Plaintiffs intend to amend their Complaint following actions taken by Seattle Police Department on August 27, 2020.
- C. Electronically Stored Information. The Parties do not currently seek additional management on discovery issues. The Parties do not anticipate electronic discovery to be onerous at this point in time.

D. Privilege Issues. The Parties agree that there are no unique or special privilege issues in this matter.

E. Proposed Limitations on Discovery. The Parties do not propose any limitations on discovery.

F. Discovery Related Orders. The City of Seattle intends to move to stay this matter and consolidate the matter in all respects with *Black Lives Matter v. City of Seattle*, Case No. 20-887-RAJ. Plaintiffs oppose the City's anticipated motion. As to other discovery orders, the Parties anticipate seeking entry of a protective order to protect sensitive matters, such as personal identity information and tactical/training information, the public disclosure of which would compromise effective law enforcement, or as otherwise permitted under the Federal Rules of Civil Procedure.

5. Local Civil Rule 26(f)(1)

A. Prompt Case Resolution. The Parties have not communicated about the potential for early resolution.

B. Alternative Dispute Resolution. The Parties intend to pursue mediation pursuant to Local Civil Rule 39.1 at least 60 days prior to the proposed trial date.

C. Related Cases. *Black Lives Matter v. City of Seattle*, Case No. 20-887-RAJ is a related case with overlapping facts, claims, and prayers for relief. *United States v. City of Seattle*, 12-1282-JLR has some matters that overlap with this case.

D. Discovery Management. The Plaintiffs do not believe that this case will require unusual or extensive discovery, or assistance or orders from the Court regarding the scheduling or management of discovery. Defendant anticipates time-consuming discovery, as this case potentially involves thousands of hours

1 of video requiring review, potential redaction, and production. Defendant
2 intends to move to stay this matter and consolidate the matter in all respects
3 with *Black Lives Matter v. City of Seattle*, Case No. 20-887-RAJ. Plaintiffs
4 oppose the City's anticipated motion. Further, the Parties anticipate
5 cooperating with respect to discovery issues as outlined herein and will
6 cooperate to simplify pretrial matters related to the case to the extent possible.
7 The Parties anticipate agreeing to email service of discovery documents, where
8 possible.

9 E. Anticipated Discovery Sought. Plaintiffs anticipate seeking discovery
10 regarding: (1) the decisions pertaining to the use of force against protestors; (2)
11 Defendant's policies related to the use of force against protestors; (3) the
12 identities of Incident Commanders responsible for coordinating police
13 operations during ongoing demonstrations or marches; (4) police incident logs
14 and reports related to ongoing demonstrations or marches; (5) communications
15 to, from, and within the Seattle Police Operations Center regarding crowd
16 control efforts and ongoing demonstrations or marches; (6) communications
17 with other agencies regarding intelligence of ongoing demonstrations or
18 marches; (7) briefing materials or other documents provided to police officers
19 regarding crowd control efforts; (8) communications with other agencies,
20 departments, or organizations regarding crowd control efforts within
21 Defendant's jurisdiction; (9) daily inventory of all "less lethal" crowd control
22 tools and policies, trainings, and related communications; (10); information
23 regarding order for each deployment and use of "less lethal" crowd control tool
and identity of officer involved; (11) identity of other agencies, departments, or
organizations who aided with crowd control; (12) officer body worn video

(“BWV”) footage; (13) health records and incident records pertaining to officers injured in response to ongoing protests, marches, and demonstrations. Defendant anticipates seeking discovery regarding (1) the factual bases for Plaintiffs’ claims; (2) Plaintiffs’ claimed injuries; (3) the individual Plaintiffs’ activities during the events at issue; (4) Plaintiffs’ communications relating to the events at issue and their claimed injuries; (5) Plaintiffs’ planning for the events at issue; (6) Photographs and videos in Plaintiffs’ possession relating to the events at issue and Plaintiffs’ claimed injuries; and (7) documents, records, and other tangible items in Plaintiffs’ possession related to the events at issue and Plaintiffs’ claimed injuries.

F. Phasing. Phasing is not currently required in this case, but may be proposed at a later point in the case, depending on case development, needs, and circumstances.

G. Preservation of Discoverable Information. The Parties do not currently anticipate any issues regarding the preservation of evidence, which may also involve obtaining materials from third parties.

H. Privilege Issues. The Parties agree that there are no unique or special privilege issues in this matter. Parties agree to handle inadvertent production of privileged information pursuant to Fed. R. Evid. 502(d) and (e) or otherwise in accordance with procedures agreed to by the parties.

I. Model Protocol for Discovery of ESI. The Parties agree to adopt the Model Agreement regarding Discovery of ESI to the extent that discovery of such information arises in this case, with modifications agreed to by both Parties.

J. Alternatives to Model Protocol. See above.

6. Discovery Cut-off.

1 The Parties propose 120 days before trial as a deadline for completion of discovery, in
2 accordance with the Court's Order. Dkt. 15. The Parties will be permitted to conduct expert
3 discovery up to 45 days after the disclosure of expert reports and/or rebuttal expert reports mandated
4 under Fed. R. Civ. P. 26(a).

5 **7. Bifurcation.**

6 Bifurcation is not anticipated at this time. However, as noted above, Defendant intends to
7 move to stay and consolidate.

8 **8. Trial Date.**

9 The Parties' earliest availability for trial is September 2021. In light of evolving conditions
10 related to the COVID-19 outbreak in the District, including General Order No. 08-20, the Parties
11 recognize that the trial date may be delayed.

12 **9. Jury.**

13 Plaintiffs filed a jury demand.

14 **10. Length of Trial.**

15 The parties estimate approximately 10 court days.

16 **11. Trial Counsel.**

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3 **12. Trial Date Conflicts.**

4 Plaintiffs are available for trial in September of 2021 and do not anticipate any unavailability
5 in the subsequent months.

6 Counsel for defendant is available for trial in September 2021 and onward.

7 **13. Corporate Disclosure Statement.**

8 Not applicable.

9 **14. Service.**

10 Defendant completed a waiver of service that was filed on August 20, 2020
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1 DATED: September 1, 2020

By: s/ J. Talitha Hazellton
J. Talitha Hazelton, #52460

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